

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Brian Vaydich,
Appellant,

v.

Sioux City Board of Review,
Appellee.

ORDER

Docket No. 14-107-0005
Parcel No. 8947-21-380-0111

On November 6, 2014, the above-captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Brian Vaydich was self-represented and requested his appeal be considered without a hearing. Assistant Sioux City Attorney Jack Faith is counsel for the Board of Review. The Appeal Board having reviewed the record, and being fully advised finds:

Findings of Fact

Brian Vaydich is the owner of a residentially classified property located at 1507 Jackson Street, Sioux City, Iowa. The property was built in 1903 and is a two-story, frame home with 3150 square feet. It has a full, unfinished basement; open and enclosed porches; and a one-car detached garage. The site is 0.174 acres. The property record card reports the improvements are in normal condition; however, there is also a note from 2003 that states the subject “appears to be in need of maintenance and clean up, basement windows all boarded up.”

Vaydich protested to the Sioux City Board of Review regarding the January 1, 2014, assessment of \$56,300, allocated as \$2100 in land value and \$54,200 in improvement value. This value did not change from the prior year’s assessment; and therefore, Vaydich was limited to a claim

of downward change in value since the last assessment. Iowa Code § 441.37(1)(a)(2). The Board of Review denied the petition.

Vaydich then appealed to this Board.

Vaydich purchased the property in November 2013, and submitted the HUD statement and a letter from the listing and selling real estate broker, LaNay Welch of OZ Homes and Lending. Welch confirms the purchase price of the property was \$50,000, and that in her opinion the property “is not worth a penny more than he gave for it.” Welch also states the subject property was in need of repair including all new windows, siding, interior paint, and flooring. Welch did not provide any comparable data or other market evidence to support her opinion.

The Board of Review did not offer any evidence.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as

the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value.

§441.21(1)(b). The subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996). Rather, this Board must determine what constitutes the most reliable and persuasive evidence of the property's market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

"For even-numbered assessment years, when the property has not been reassessed" a taxpayer may challenge its assessment on the basis that there has been a change in value from the immediately preceding assessment year. Iowa Code § 441.37(1)(a)(2); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). "When this ground is relied upon, the protesting party shall show the decrease in value by comparing the market value of the property as of January 1 of the current assessment year and the actual value of the property for the previous assessment year." *Id.*; *see also Equitable Life Ins. Co.*, 252 N.W.2d at 450 (holding for a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation). Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.

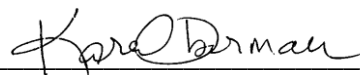
Vaydich essentially asserts the November 2013 sale price of \$50,000 reflects the fair market value for January 1, 2014. However, Vaydich not provide any evidence of the property's January 1, 2013, value. *Both values are required to support a claim of change in value. Id.* at 450.

Because Vaydich asserts the subject is in "bad shape" and his real estate broker confirms this condition, and notes on the property record card indicate a question about the maintenance and upkeep,

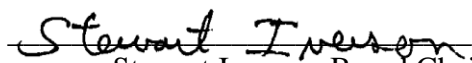
we encourage him to request an interior inspection of the property for the 2015 reassessment year to ensure the condition rating is reflective of property's current state.

The APPEAL BOARD ORDERS the assessment of the property owned by Brian Vaydich located at 1507 Jackson Street, Sioux City, Iowa, as of January 1, 2014, set by the Sioux City Board of Review, is affirmed.

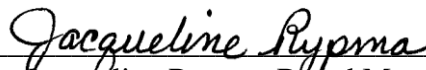
Dated this 2nd day of December, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Cc:

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